

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JULY 14, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 21, 2003

**SENATE BILL**

**No. 248**

**Introduced by Senator Murray**

**(Coauthor: Senator Florez)**

~~(Coauthor: Assembly Member Firebaugh)~~

*(Coauthors: Assembly Members Firebaugh and Plescia)*

February 14, 2003

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An act to amend Sections 415, 426, 3001, 3003, 3051, and 3066 of, to add ~~Sections 3050.8 and~~ *Section* 3069.1 to, and to add Article 5 (commencing with Section 3070) to Chapter 6 of Division 2 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 248, as amended, Murray. Vehicles: New Motor Vehicle Board: recreational vehicles.

(1) Existing law defines a "new motor vehicle dealer" as a dealer who, among other matters, acquires for resale new and unregistered motor vehicles from manufacturers or distributors of those vehicles. Existing law establishes a New Motor Vehicle Board that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as specified.

This bill would include a recreational vehicle, as defined, as a motor vehicle for the purposes of this definition and for the purposes of the

operation of the board and related statutes, except for truck campers and park trailers. The bill would establish separate provisions regulating the terms and enforcement of recreational vehicle franchise agreements.

The bill would require the board to recommend to a member of the public that he or she consult with the Department of Consumer Affairs regarding certain complaints, and would specify that a person's right to maintain an action regarding a transaction involving a recreational vehicle under any other provision of law is not affected by the provisions of this bill.

(2) Existing law requires 4 of the appointive members of the board to be new motor vehicle dealers, as defined.

This bill would exclude dealers who deal exclusively in recreational vehicles, as defined, from those membership provisions of the board.

(3) *This bill incorporates additional changes to Section 3066 of the Vehicle Code proposed by AB 1718 and SB 298 to become operative only if AB 1718 or SB 298, or both AB 1718 and SB 298, and this bill are chaptered and become effective on or before January 1, 2004, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 415 of the Vehicle Code is amended to  
2 read:

3 415. (a) A "motor vehicle" is a vehicle that is self-propelled.

4 (b) "Motor vehicle" does not include a self-propelled  
5 wheelchair, invalid tricycle, or motorized quadricycle, if operated  
6 by a person who, by reason of physical disability, is otherwise  
7 unable to move about as a pedestrian.

8 (c) For purposes of Chapter 6 (commencing with Section 3000)  
9 of Division 2, "motor vehicle" includes a recreational vehicle as  
10 that term is defined in subdivision (a) of Section 18010 of the  
11 Health and Safety Code, but does not include a truck camper.

12 SEC. 2. Section 426 of the Vehicle Code is amended to read:

13 426. "New motor vehicle dealer" is a dealer, as defined in  
14 Section 285, who, in addition to the requirements of that section,  
15 either acquires for resale new and unregistered motor vehicles  
16 from manufacturers or distributors of those motor vehicles or  
17 acquires for resale new and unregistered off-highway motorcycles



1 from manufacturers or distributors of the vehicles. No distinction  
2 shall be made, nor any different construction be given to the  
3 definition of “new motor vehicle dealer” and “dealer” except for  
4 the application of the provisions of Chapter 6 (commencing with  
5 Section 3000) of Division 2 and Section 11704.5. Sections 3001  
6 and 3003 do not, however, apply to a dealer who deals exclusively  
7 in motorcycles or recreational vehicles, as defined in subdivision  
8 (a) of Section 18010 of the Health and Safety Code.

9 SEC. 3. Section 3001 of the Vehicle Code is amended to read:

10 3001. (a) Four of the appointive members of the board shall  
11 be new motor vehicle dealers as defined in Section 426 who have  
12 engaged for a period of not less than five years preceding their  
13 appointment in activities regulated by Article 1 (commencing with  
14 Section 11700) of Chapter 4 of Division 5. These members shall  
15 be appointed by the Governor.

16 (b) Each of the five remaining appointive members shall be a  
17 public member who is not a licentiate under Article 1  
18 (commencing with Section 11700) or 2 (commencing with Section  
19 11800) of Chapter 4 of Division 5 or an employee of such licentiate  
20 at the time of appointment and one of these five appointive  
21 members shall have been admitted to practice law in the state for  
22 at least 10 years immediately preceding his or her appointment.  
23 One public member shall be appointed by the Senate Committee  
24 on Rules, one by the Speaker of the Assembly, and three by the  
25 Governor.

26 (c) Each member shall be of good moral character.

27 (d) This section does not apply to a dealer who deals  
28 exclusively in motorcycles or recreational vehicles, as defined in  
29 subdivision (a) of Section 18010 of the Health and Safety Code.

30 SEC. 4. Section 3003 of the Vehicle Code is amended to read:

31 3003. (a) Each appointive member of the board shall be  
32 appointed for a term of four years and shall hold office until the  
33 appointment and qualification of his or her successor or until one  
34 year has elapsed since the expiration of the time for which he or  
35 she was appointed, whichever occurs first.

36 (b) The terms of the members of the board first appointed shall  
37 expire as follows: one public member and one new motor vehicle  
38 dealer member, January 15, 1969; two public members and one  
39 new motor vehicle dealer member, January 15, 1970; two public

members and two new motor vehicle dealer members, January 15, 1971. The terms shall thereupon expire in the same relative order.

(c) Vacancies occurring shall be filled by appointment for the unexpired term.

This section does not apply to a dealer who deals exclusively in motorcycles or recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code.

~~SEC. 5.—Section 3050.8 is added to the Vehicle Code, to read:~~

~~3050.8.—(a) If the board receives a complaint from a member of the public seeking a refund involving the sale or lease of, or a replacement of, a recreational vehicle, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, from a motor vehicle dealership, as defined in paragraph (1) of subdivision (c) of Section 3072, the board shall recommend that the complainant consult with the Department of Consumer Affairs.~~

~~(b) Nothing in this chapter affects a person's rights regarding a transaction involving a recreational vehicle as defined in subdivision (a), to maintain an action under any other statute, including, but not limited to, applicable provisions of Title 1.7 (commencing with Section 1790) of Part 4 of Division 3 of the Civil Code.~~

~~SEC. 6.~~

~~SEC. 5.~~ Section 3051 of the Vehicle Code is amended to read:

3051. This chapter does not apply to any person licensed as a transporter under Article 1 (commencing with Section 11700) or as a salesperson under Article 2 (commencing with Section 11800) of Chapter 4 of Division 5, or to any licensee who is not a new motor vehicle dealer, motor vehicle manufacturer, manufacturer branch, new motor vehicle distributor, distributor branch, or representative. This chapter does not apply to transactions involving “mobilehomes,” as defined in Section 18008 of the Health and Safety Code, “recreational vehicles,” as defined in subdivision (b) of Section 18010 of the Health and Safety Code, truck campers, “commercial coaches,” as defined in Section 18001.8 of the Health and Safety Code, or off-highway motor vehicles subject to identification, as defined in Section 38012, except off-highway motorcycles, as defined in Section 436, and all-terrain vehicles, as defined in Section 111. Except as otherwise provided in this chapter, this chapter applies to a new motor vehicle dealer, a dealer of new recreational vehicles, as defined in

subdivision (a) of Section 18010 of the Health and Safety Code, except a dealer who deals exclusively in truck campers, a vehicle manufacturer as defined in Section 672, a manufacturer branch as defined in Section 389, a distributor as defined in Section 296, a distributor branch as defined in Section 297, a representative as defined in Section 512, or an applicant therefor.

~~SEC. 7.~~

SEC. 6. Section 3066 of the Vehicle Code is amended to read:

3066. (a) Upon receiving a notice of protest pursuant to Section 3060, 3062, 3064, 3065, 3065.1, 3070, or 3072, the board shall fix a time, which shall be within 60 days of the order, and place of hearing, and shall send by registered mail a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups that have requested notification by the board of protests and decisions of the board. Except in any case involving a franchisee who deals exclusively in motorcycles, the board or its secretary may, upon a showing of good cause, accelerate or postpone the date initially established for a hearing, but in no event shall the hearing be rescheduled more than 90 days after the board's initial order. For the purpose of accelerating or postponing a hearing date, "good cause" includes, but is not limited to, the effects upon, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted. The board, or a hearing officer designated by the board, shall hear and consider the oral and documented evidence introduced by the parties and other interested individuals and groups, and the board shall make its decision solely on the record so made. Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code and Sections 11507.3, 11507.6, 11507.7, 11511, 11513, 11514, 11515, and 11517 of the Government Code apply to these proceedings.

(b) In any hearing on a protest filed pursuant to Section 3060 or 3062, 3062, 3070, or 3072, the franchisor shall have the burden of proof to establish that there is good cause to modify, replace, terminate, or refuse to continue a franchise. The franchisee shall have the burden of proof to establish that there is good cause not to enter into a franchise establishing or relocating an additional motor vehicle dealership.

(c) In any hearing on a protest alleging a violation of, or filed pursuant to, Section 3064, 3065, ~~3065.1, 3070, or 3072~~ or 3065.1, the franchisee shall have the burden of proof, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor where that issue is material to a protest filed pursuant to Section 3065 or 3065.1.

(d) A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, any matter involving a protest filed pursuant to this article unless all parties to the protest stipulate otherwise.

~~SEC. 8.—~~

*SEC. 7. Section 3066 of the Vehicle Code is amended to read:*

3066. (a) Upon receiving a notice of protest pursuant to Section 3060, 3062, 3064, 3065, ~~or 3065.1, 3070, or 3072~~, the board shall fix a time, ~~which shall be~~ within 60 days of the order, and place of hearing, and shall send by registered mail a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups ~~which~~ *that* have requested notification by the board of protests and decisions of the board. Except in ~~any~~ a case involving a franchisee who deals exclusively in motorcycles, the board or its ~~secretary~~ *executive director* may, upon a showing of good cause, accelerate or postpone the date initially established for a hearing, but ~~in no event shall~~ the hearing *may not* be rescheduled more than 90 days after the board's initial order. For the purpose of accelerating or postponing a hearing date, "good cause" includes, but is not limited to, the effects upon, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted. The board, ~~or a hearing officer or an administrative law judge~~ designated by the board, shall hear and consider the oral and documented evidence introduced by the parties and other interested individuals and groups, and the board shall make its decision solely on the record so made. Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code and Sections 11507.3, 11507.6, 11507.7, 11511, ~~11511.5~~, 11513, 11514, 11515, and 11517 of the Government Code apply to these proceedings.

(b) In ~~any~~ a hearing on a protest filed pursuant to Section 3060, ~~or 3062, 3070, or 3072~~, the franchisor shall have the burden of proof to establish that there is good cause to modify, replace,

1 terminate, or refuse to continue a franchise. The franchisee shall  
2 have the burden of proof to establish that there is good cause not  
3 to enter into a franchise establishing or relocating an additional  
4 motor vehicle dealership.

5 (c) In ~~any~~ a hearing on a protest alleging a violation of, or filed  
6 pursuant to, Section 3064, 3065, or 3065.1, the franchisee shall  
7 have the burden of proof, but the franchisor has the burden of proof  
8 to establish that a franchisee acted with intent to defraud the  
9 franchisor where that issue is material to a protest filed pursuant  
10 to Section 3065 or 3065.1.

11 (d) A member of the board who is a new motor vehicle dealer  
12 may not participate in, hear, comment, or advise other members  
13 upon, or decide, ~~any~~ a matter involving a protest filed pursuant to  
14 this article unless all parties to the protest stipulate otherwise.

15 *SEC. 8. Section 3066 of the Vehicle Code is amended to read:*

16 3066. (a) Upon receiving a notice of protest pursuant to  
17 Section 3060, 3062, 3064, 3065, ~~or~~ 3065.1, 3065.2, 3070, or 3072,  
18 the board shall fix a time, which shall be within 60 days of the  
19 order, and place of hearing, and shall send by registered mail a  
20 copy of the order to the franchisor, the protesting franchisee, and  
21 all individuals and groups ~~which~~ *that* have requested notification  
22 by the board of protests and decisions of the board. Except in any  
23 case involving a franchisee who deals exclusively in motorcycles,  
24 the board or its secretary may, upon a showing of good cause,  
25 accelerate or postpone the date initially established for a hearing,  
26 but in no event shall the hearing be rescheduled more than 90 days  
27 after the board's initial order. For the purpose of accelerating or  
28 postponing a hearing date, "good cause" includes, but is not  
29 limited to, the effects upon, and any irreparable harm to, the parties  
30 or interested persons or groups if the request for a change in  
31 hearing date is not granted. The board, or a hearing officer  
32 designated by the board, shall hear and consider the oral and  
33 documented evidence introduced by the parties and other  
34 interested individuals and groups, and the board shall make its  
35 decision solely on the record so made. Chapter 4.5 (commencing  
36 with Section 11400) of Part 1 of Division 3 of Title 2 of the  
37 Government Code and Sections 11507.3, 11507.6, 11507.7,  
38 11511, 11513, 11514, 11515, and 11517 of the Government Code  
39 apply to these proceedings.



(b) In any hearing on a protest filed pursuant to Section 3060 or, 3062, 3070, or 3072, the franchisor shall have the burden of proof to establish that there is good cause to modify, replace, terminate, or refuse to continue a franchise. The franchisee shall have the burden of proof to establish that there is good cause not to enter into a franchise establishing or relocating an additional motor vehicle dealership.

(c) In any hearing on a protest alleging a violation of, or filed pursuant to, Section 3064, 3065, or 3065.1, or 3065.2, the franchisee shall have the burden of proof, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor where that issue is material to a protest filed pursuant to Section 3065 or 3065.1.

(d) A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, any matter involving a protest filed pursuant to this article unless all parties to the protest stipulate otherwise.

SEC. 9. Section 3066 of the Vehicle Code is amended to read:

3066. (a) Upon receiving a notice of protest pursuant to Section 3060, 3062, 3064, 3065, or 3065.1, 3065.2, 3070, or 3072, the board shall fix a time, ~~which shall be~~ within 60 days of the order, and place of hearing, and shall send by registered mail a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups ~~which~~ that have requested notification by the board of protests and decisions of the board. Except in ~~any~~ a case involving a franchisee who deals exclusively in motorcycles, the board or its ~~secretary~~ executive director may, upon a showing of good cause, accelerate or postpone the date initially established for a hearing, but ~~in no event shall~~ the hearing ~~may not~~ be rescheduled more than 90 days after the board's initial order. For the purpose of accelerating or postponing a hearing date, "good cause" includes, but is not limited to, the effects upon, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted. The board, ~~or a hearing officer or an administrative law judge~~ designated by the board, shall hear and consider the oral and documented evidence introduced by the parties and other interested individuals and groups, and the board shall make its decision solely on the record so made. Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code and



Sections 11507.3, 11507.6, 11507.7, 11511, ~~11511.5~~, 11513, 11514, 11515, and 11517 of the Government Code apply to these proceedings.

(b) In ~~any~~ a hearing on a protest filed pursuant to Section 3060 ~~or~~, 3062, 3070, or 3072, the franchisor shall have the burden of proof to establish that there is good cause to modify, replace, terminate, or refuse to continue a franchise. The franchisee shall have the burden of proof to establish that there is good cause not to enter into a franchise establishing or relocating an additional motor vehicle dealership.

(c) In ~~any~~ a hearing on a protest alleging a violation of, or filed pursuant to, Section 3064, 3065, ~~or~~ 3065.1, or 3065.2, the franchisee shall have the burden of proof, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor where that issue is material to a protest filed pursuant to Section 3065 or 3065.1.

(d) A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, ~~any~~ a matter involving a protest filed pursuant to this article unless all parties to the protest stipulate otherwise.

*SEC. 10.* Section 3069.1 is added to the Vehicle Code, to read:  
3069.1. Sections 3060 to 3063, inclusive, do not apply to a franchise authorizing a dealership, as defined in paragraph (1) of subdivision (e) of Section 3072.

~~*SEC. 9.*~~

*SEC. 11.* Article 5 (commencing with Section 3070) is added to Chapter 6 of Division 2 of the Vehicle Code, to read:

Article 5. Hearings on Recreational Vehicle Franchise  
Modification, Replacement, Termination, Refusal to Continue,  
Establishment, and Relocation, *and Consumer Complaints*

3070. (a) Notwithstanding Section 20999.1 of the Business and Professions Code or the terms of any franchise, a franchisor of a dealer of new recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, except a dealer who deals exclusively in truck campers, may not terminate or refuse to continue a franchise unless all of the following conditions are met:

(1) The franchisee and the board have received written notice from the franchisor as follows:

(A) Sixty days before the effective date thereof setting forth the specific grounds for termination or refusal to continue.

(B) Fifteen days before the effective date thereof setting forth the specific grounds with respect to any of the following:

(i) Transfer of any ownership or interest in the franchise without the consent of the franchisor, which consent ~~shall~~ may not be unreasonably withheld.

(ii) Misrepresentation by the franchisee in applying for the franchise.

(iii) Insolvency of the franchisee, or filing of any petition by or against the franchisee under any bankruptcy or receivership law.

(iv) Any unfair business practice after written warning thereof.

(v) Failure of the dealer to conduct its customary sales and service operations during its customary hours of business for seven consecutive business days, giving rise to a good faith belief on the part of the franchisor that the recreational vehicle dealer is in fact going out of business, except for circumstances beyond the direct control of the recreational vehicle dealer or by order of the department.

(C) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, one of the following statements, whichever is applicable:

~~To be inserted when a 60-day notice of termination is given.~~

*(i) To be inserted when a 60-day notice of termination is given:*

“NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.”

~~To be inserted when a 15-day notice of termination is given.~~

*(ii) To be inserted when a 15-day notice of termination is given:*

“NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your

franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.”

(2) Except as provided in Section 3050.7, the board finds that there is good cause for termination or refusal to continue, following a hearing called pursuant to Section 3066. The franchisee may file a protest with the board within 30 days after receiving a 60-day notice, satisfying the requirements of this section, or within 30 days after the end of any appeal procedure provided by the franchisor, or within 10 days after receiving a 15-day notice, satisfying the requirements of this section, or within 10 days after the end of any appeal procedure provided by the franchisor. When a protest is filed, the board shall advise the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor may not terminate or refuse to continue until the board makes its findings.

(3) The franchisor has received the written consent of the franchisee, or the appropriate period for filing a protest has elapsed.

(b) (1) Notwithstanding Section 20999.1 of the Business and Professions Code or the terms of any franchise, a franchisor of a dealer of recreational vehicles may not modify or replace a franchise with a succeeding franchise if the modification or replacement would substantially affect the franchisee’s sales or service obligations or investment, unless the franchisor has first given the board and each affected franchisee written notice thereof at least 60 days in advance of the modification or replacement. Within 30 days of receipt of a notice satisfying the requirements of this section, or within 30 days after the end of any appeal procedure provided by the franchisor, a franchisee may file a protest with the board and the modification or replacement does not become effective until there is a finding by the board that there is good cause for the modification or replacement. If, however, a replacement franchise is the successor franchise to an expiring or expired term franchise, the prior franchise shall continue in effect until resolution of the protest by the board. In the event of multiple protests, hearings shall be consolidated to expedite the disposition of the issue.



(2) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, the following statement:

“NOTICE TO DEALER: Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchiser or your protest rights will be waived.”

3071. In determining whether good cause has been established for modifying, replacing, terminating, or refusing to continue a franchise of a dealer of new recreational vehicles, the board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

(a) The amount of business transacted by the franchisee, as compared to the business available to the franchisee.

(b) The investment necessarily made and obligations incurred by the franchisee to perform its part of the franchise.

(c) The permanency of the investment.

(d) Whether it is injurious or beneficial to the public welfare for the franchise to be modified or replaced or the business of the franchisee disrupted.

(e) Whether the franchisee has adequate new recreational vehicle sales and, if required by the franchise, service facilities, equipment, vehicle parts, and qualified service personnel, to reasonably provide for the needs of the consumers of the recreational vehicles handled by the franchisee and has been and is rendering adequate services to the public.

(f) Whether the franchisee fails to fulfill the warranty obligations agreed to be performed by the franchisee in the franchise.

(g) The extent of franchisee’s failure to comply with the terms of the franchise.

3072. (a) (1) Except as otherwise provided in subdivision (b), if a franchisor seeks to enter into a franchise establishing an

1 additional motor vehicle dealership within a relevant market area  
2 where the same recreational vehicle line-make is then represented,  
3 or seeks to relocate an existing motor vehicle dealership, the  
4 franchisor shall, in writing, first notify the board and each  
5 franchisee in that recreational vehicle line-make in the relevant  
6 market area of the franchisor's intention to establish an additional  
7 dealership or to relocate an existing dealership within or into that  
8 market area. Within 20 days of receiving the notice, satisfying the  
9 requirements of this section, or within 20 days after the end of any  
10 appeal procedure provided by the franchisor, any franchisee  
11 required to be given the notice may file with the board a protest to  
12 establishing or relocating the dealership. If, within this time, a  
13 franchisee files with the board a request for additional time to file  
14 a protest, the board or its secretary, upon a showing of good cause,  
15 may grant an additional 10 days to file the protest. When a protest  
16 is filed, the board shall inform the franchisor that a timely protest  
17 has been filed, that a hearing is required pursuant to Section 3066,  
18 and that the franchisor shall not establish or relocate the proposed  
19 dealership until the board has held a hearing as provided in Section  
20 3066, nor thereafter, if the board has determined that there is good  
21 cause for not permitting the dealership. In the event of multiple  
22 protests, hearings may be consolidated to expedite the disposition  
23 of the issue.

24 (2) The written notice shall contain, on the first page thereof in  
25 at least 12-point bold type and circumscribed by a line to segregate  
26 it from the rest of the text, the following statement:

27 "NOTICE TO DEALER: You have the right to file a protest  
28 with the NEW MOTOR VEHICLE BOARD in Sacramento and  
29 have a hearing on your protest under the terms of the California  
30 Vehicle Code if you oppose this action. You must file your protest  
31 with the board within 20 days of your receipt of this notice, or  
32 within 20 days after the end of any appeal procedure that is  
33 provided by us to you. If, within this time, you file with the board  
34 a request for additional time to file a protest, the board or its  
35 secretary, upon a showing of good cause, may grant you an  
36 additional 10 days to file the protest."

37 (b) Subdivision (a) does not apply to any of the following:

38 (1) The relocation of an existing dealership to any location that  
39 is both within the same city as, and within one mile of, the existing  
40 dealership location.



(2) The establishment at any location that is both within the same city as, and within one-quarter mile of, the location of a dealership of the same recreational vehicle line-make that has been out of operation for less than 90 days.

(3) A display of vehicles at a fair, exposition, or similar exhibit if no actual sales are made at the event and the display does not exceed 30 days. This paragraph ~~shall~~ *may* not be construed to prohibit a new vehicle dealer from establishing a branch office for the purpose of selling vehicles at the fair, exposition, or similar exhibit, even though that event is sponsored by a financial institution, as defined in Section 31041 of the Financial Code, or by a financial institution and a licensed dealer. The establishment of these branch offices, however, shall be in accordance with subdivision (a) where applicable.

(4) An annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with all of the requirements of subdivision (d) of Section 11713.15.

~~(d)~~

(c) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

~~(e)~~

(d) As used in this section and in Section 3073, the following definitions apply:

(1) “Motor vehicle dealership” or “dealership” means any authorized facility at which a franchisee offers for sale or lease, displays for sale or lease, or sells or leases new recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health Safety Code. A “motor vehicle dealership” or “dealership” does not include a dealer who deals exclusively in truck campers.

(2) “Recreational vehicle line-make” means that group or groups of recreational vehicles as defined by the terms of a written agreement that complies with Section 331.

3073. In determining whether good cause has been established for not entering into or relocating an additional franchise for the same recreational vehicle line-make, the board shall take into consideration the existing circumstances, including, but not limited to, all of the following:



1 (a) The permanency of the investment.

2 (b) The effect on the retail recreational vehicle business and the  
3 consuming public in the relevant market area.

4 (c) Whether it is injurious to the public welfare for an  
5 additional franchise to be established.

6 (d) Whether the franchisees of the same recreational vehicle  
7 line-make in that relevant market area are providing adequate  
8 competition and convenient consumer care for the motor vehicles  
9 of the recreational vehicle line-make in the market area. In making  
10 this determination, the board shall consider the adequacy of  
11 recreational vehicle sales and, if required by the franchise, service  
12 facilities, equipment, supply of vehicle parts, and qualified service  
13 personnel.

14 (e) Whether the establishment of an additional franchise would  
15 increase competition and therefore be in the public interest.

16 3074. (a) *If the board receives a complaint from a member of*  
17 *the public seeking a refund involving the sale or lease of, or a*  
18 *replacement of, a recreational vehicle, as defined in subdivision*  
19 *(a) of Section 18010 of the Health and Safety Code, from a motor*  
20 *vehicle dealership, as defined in paragraph (1) of subdivision (e)*  
21 *of Section 3072, the board shall recommend that the complainant*  
22 *consult with the Department of Consumer Affairs.*

23 (b) *Nothing in this chapter affects a person's rights regarding*  
24 *a transaction involving a recreational vehicle as defined in*  
25 *subdivision (a), to maintain an action under any other statute,*  
26 *including, but not limited to, applicable provisions of Title 1.7*  
27 *(commencing with Section 1790) of Part 4 of Division 3 of the Civil*  
28 *Code.*

29 3075. This article applies only to a franchise entered into or  
30 renewed on or after January 1, 2004.

31 SEC. 12. (a) *Section 7 of this bill incorporates amendments*  
32 *to Section 3066 of the Vehicle Code proposed by both this bill and*  
33 *AB 1718. It shall only become operative if (1) both bills are*  
34 *enacted and become effective on or before January 1, 2004, (2)*  
35 *each bill amends Section 3066 of the Vehicle Code, (3) SB 298 is*  
36 *not enacted or as enacted does not amend that section, and (4) this*  
37 *bill is enacted after AB 1718, in which case Sections 6, 8, and 9 of*  
38 *this bill shall not become operative.*

39 (b) *Section 8 of this bill incorporates amendments to Section*  
40 *3066 of the Vehicle Code proposed by both this bill and SB 298. It*



1 shall only become operative if (1) both bills are enacted and  
2 become effective on or before January 1, 2004, (2) each bill  
3 amends Section 3066 of the Vehicle Code, (3) AB 1718 is not  
4 enacted or as enacted does not amend that section, and (4) this bill  
5 is enacted after SB 298 in which case Sections 6, 7, and 9 of this  
6 bill shall not become operative.

7 (c) Section 9 of this bill incorporates amendments to Section  
8 3066 of the Vehicle Code proposed by this bill, AB 1718, and SB  
9 298. It shall only become operative if (1) all three bills are enacted  
10 and become effective on or before January 1, 2004, (2) all three  
11 bills amend Section 3066 of the Vehicle Code, and (3) this bill is  
12 enacted after AB 1718 and SB 298, in which case Sections 6, 7, and  
13 8 of this bill shall not become operative.

14  
15 CORRECTIONS

16 Text — Page 15.

17  
18

